

November 27, 1990

0-333A032

9334-C
RECORDATION NO. FILED 1425

NOV 29 1990 -2 35 PM

INTERSTATE COMMERCE COMMISSION

Mrs. Mildred Lee
Room 2303
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Recordation No. 9334 - Third Amendment to Equipment Lease -
Between Swindell-Dressler Leasing Company, Lessor and
Swindell-Dressler Energy Supply Company Lessee

Dear Mrs. Lee:

Enclosed you will find three originals and two copies of the above captioned document to be filed with the Interstate Commerce Commission. Please retain your necessary recording copies and return the remaining stamped copies to me in the enclosed pre-addressed Federal Express envelope. I have also enclosed a check to cover the filing fee.

If you have any questions please do not hesitate to contact me directly at (603) 929-3157. Thank you.

Sincerely,

Dennis W. Alexander
br

Dennis W. Alexander
Vice President - Deputy General Counsel
Wheelabrator Environmental Systems Inc.

DWA/br

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

11/30/90

Dennis W. Alexander-Vice President-
Deputy General Counsel
Wheelabrator Technologies, Inc.
Liberty Lane
Hampton, NH. 03842

Dear

Sirs:

The enclosed document(s) was recorded pursuant to the
provisions of Section 11303 of the Interstate Commerce Act, 49
U.S.C. 11303, on at , and assigned recordation
number(s). 11/29/90 2:35PM

9334-C and 9335-B.

Sincerely yours,



Noreta R. McGee
Secretary

Enclosure(s)

THIRD AMENDMENT TO EQUIPMENT LEASE

9334-C
NOV 29 1990 -2 25 PM
INTERSTATE COMMERCE COMMISSION

Dated as of November 15, 1990

Between

SWINDELL-DRESSLER LEASING COMPANY,

Lessor

and

SWINDELL-DRESSLER ENERGY SUPPLY COMPANY,

Lessee

THIRD AMENDMENT TO EQUIPMENT LEASE

THIS THIRD AMENDMENT dated as of November 15, 1990 (the "Third Amendment"), to Equipment Lease dated as of February 1, 1978, each between SWINDELL-DRESSLER LEASING COMPANY, a Delaware corporation (the "Lessor") and SWINDELL-DRESSLER ENERGY SUPPLY COMPANY, a Delaware corporation (the "Lessee").

W I T N E S S E T H:

WHEREAS, the Lessor and the Lessee have heretofore executed and delivered that certain Equipment Lease dated as of February 1, 1978, as amended by the Amendment to Equipment Lease dated as of July 1, 1978 and Amendment to Equipment Lease dated March 15, 1979 (said Equipment Lease as so amended being hereinafter collectively referred to as the "Lease"), providing for the lease thereunder by the Lessor to the Lessee of Equipment as therein defined; and

WHEREAS, the Lessor and the Lessee desire to further amend the Lease as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Lessor and the Lessee hereby agree:

SECTION 1. AMENDMENTS.

The Lease is hereby amended as follows:

(a) The definition of the terms "Equipment," "Item of Equipment" and "Item" set forth in Section 1 of the Lease shall be amended to read as follows:

"'Equipment' shall mean all, and 'Item of Equipment' or 'Item' shall mean each, of the Items of railroad rolling stock more fully described in Exhibits A-1, A-2, A-3, A-4 and A-5 attached hereto and made a part hereof and any Item substituted therefor pursuant to Section 13(b) hereof."

(b) The definition of the term "Manufacturer" and "Manufacturers" set forth in Section 1 of the Lease shall be amended to read as follows:

"'Manufacturer' shall mean each, and 'Manufacturers' shall mean both, of the Manufacturers identified in Exhibits A-1, A-2, A-3, A-4 and A-5 attached hereto and made a part hereof."

(c) Section 13(b) of the Lease shall be amended in its entirety to read as follows:

"(b) Replacement of Equipment. When an Item of Equipment has suffered a Casualty Occurrence, the Lessee shall promptly, but in any event within one year after delivery of the notice with respect to such Casualty Occurrence, replace such Item with an Item of new standard gauge railroad equipment (the "Replacement Item") which shall be of the same character as the Equipment described in Schedule A-1, A-2, A-3, A-4 or A-5 hereto, which Replacement Item shall be of a quality and have a value and utility at least equal to that of the Item having suffered the Casualty Occurrence immediately prior to such Casualty Occurrence and which Replacement Item shall otherwise conform to the requirements of this Lease. Without limiting the foregoing, the Lessee shall at the time the Replacement Item is delivered hereunder, file with the Lessor and the Security Trustees in such number of counterparts as may reasonably be requested:

(i) a certificate of the President or a Vice President of the Lessee certifying that the Replacement Item is new standard gauge railroad equipment of substantially the same character as the Equipment described in Schedule A-1, A-2, A-3, A-4 or A-5 hereto, that it has been plated or marked as required by the provisions of Section 11(b) hereof and that the Replacement Item has a quality and value and utility at least equal to that of the Item having suffered the Casualty Occurrence immediately prior thereto;

(ii) an invoice marked paid by the seller of, and a bill of sale warranting to the Lessor good title free and clear of all liens and encumbrances whatsoever to, the Replacement Item, together with a supplement or amendment to this Lease and a Certificate of Acceptance in respect of the Replacement Item executed by the Lessee; and

(iii) an opinion of counsel for the Lessee to the effect that: (1) such bill of sale is valid and effective either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Lessor title to the Replacement Item free from all claims, liens, security interests and other encumbrances, (2) that a proper supplement or amendment to this Lease in respect of the Replacement Item has been duly authorized, executed and delivered by the parties thereto and is legal, valid, binding and enforceable in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency or similar laws affecting the enforceability of creditors' rights generally, (3) no consent, approval or authorization of any governmental authority is required on the part of the Lessee in connection with the execution and delivery of such supplement or amendment, and (4) such supplement or amendment (or financing

statement or a similar notice thereof if and to the extent permitted or required by applicable law) has been filed for record or recorded in all public offices in the United States of America wherein such filing or recordation is necessary to protect the right, title and interest of the Lessor in and to the Replacement Item.

Upon compliance with the terms of this Section 13(b), the Lessee shall dispose of the Item having suffered the Casualty Occurrence upon the terms and in the manner contemplated by Section 13(d) hereof.

(d) Exhibit A-5 attached to this Third Amendment shall be and it is hereby added as a part of Exhibit A to the Lease.

(e) The "Description of Equipment" provision of Exhibit A-1 to the Lease is amended in its entirety to read as follows:

"One hundred twenty (120) 3850 cu. ft. capacity coal "Rapid Discharge" coal hopper cars, bearing Road Mark and Numbers:

SDEX 10001 to SDEX 10009, both inclusive;
" 10011 to " 10015, " " ;
" 10018 to " 10025, " " ;
" 10027 to " 10030, " " ;
" 10032;
" 10034 to SDEX 10094, both inclusive;
" 10096 to " 10097, " " ;
" 10099 to " 10102
" 10104 to " 10128, " " ; and,
" 10130."

(f) The "Description of Equipment" provision of Exhibit A-2 to the Lease is amended in its entirety to read as follows:

"One Hundred Twenty Two (122) 100-ton capacity quadruple open top, double automatic discharge door "Standard T-16" coal hopper railroad cars bearing Road Mark and Numbers:

SDEX 10131 to SDEX 10156, both inclusive;
" 10158 to " 10167, " " ;
" 10169 to " 10172, " " ;
" 10174 to " 10188, " " ;
" 10190 to " 10193, " " ;
" 10195 to " 10231, " " ;
" 10233 to " 10237, " " ;
" 10239 to " 10255, " " ;
" 10257 to " 10260."

(g) The "Description of Equipment" provision of Exhibit A-3 to the Lease is amended in its entirety to read as follows:

"Ninety One (91) 3850 cu. ft. capacity coal
"Rapid Discharge" coal hopper cars, bearing
Road Mark and Numbers:

SDEX 10261 to SDEX 10262, both inclusive;
" 10264 to " 10273, " " ;
" 10275 to " 10284 " " ;
" 10287 to " 10294 " " ;
" 10296 to " 10297 " " ;
" 10299 to " 10311, " " ;
" 10313 to " 10320, " " ;
" 10322;
" 10324 to SDEX 10326, " " ;
" 10328 to " 10336, " " ;
" 10341;
" 10343;
" 10345 to SDEX 10347, both inclusive;
" 10349;
" 10351 to SDEX 10358, both inclusive;
" 10361 to " 10365, " " ;
" 10367 to " 10372."

(h) The "Description of Equipment" provision of Exhibit A-4 to the Lease is amended in its entirety to read as follows:

"Two hundred thirty two (232) 100-ton capacity quadruple open top, double automatic discharge door "Standard T-16" coal hopper railroad cars bearing Road Mark and Numbers:

SDEX 10373 to SDEX 10376, both inclusive;
" 10378;
" 10381 to SDEX 10392, both inclusive;
" 10394 to " 10399, " " ;
" 10401 to " 10407, " " ;
" 10409 to " 10427, " " ;
" 10431 to " 10435, " " ;
" 10437 to " 10438, " " ;
" 10440 to " 10445, " " ;
" 10447 to " 10448, " " ;
" 10450 to " 10457, " " ;
" 10459 to " 10462, " " ;
" 10464 to " 10470, " " ;
" 10472 to " 10479, " " ;
" 10481 to " 10484, " " ;
" 10486 to " 10488, " " ;
" 10490 to " 10492, " " ;
" 10494 to " 10506, " " ;
" 10508 to " 10514, " " ;
" 10516;
" 10518 to SDEX 10520, both inclusive;
" 10522 to " 10540, " " ;
" 10542 to " 10565, " " ;
" 10567 to " 10597, " " ;
" 10600 to " 10601, " " ;
" 10603;
" 10605 to SDEX 10618, both inclusive;
" 10620 to " 10621, " " ;
" 10623 to " 10631, " " ;
" 10633 to " 10637."

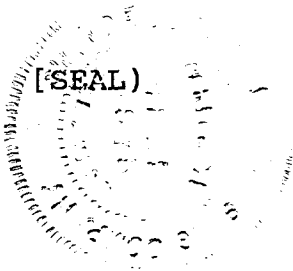
SECTION 2. MISCELLANEOUS.

(a) Except to the extent hereby amended and modified, the Lease is in all respects ratified, confirmed and approved.

(b) This Third Amendment may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one instrument.

(c) Whenever in any certificate, letter, notice or other instrument reference is made to the Lease, such reference without more shall include reference to this Third Amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.



SWINDELL-DRESSLER LEASING COMPANY

By J. M. Alexander

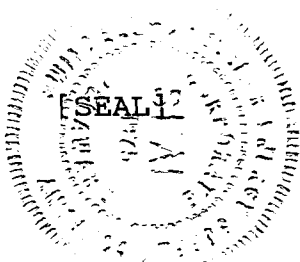
Its V. P.

LESSOR

ATTEST:

Edith M. Galloway

Its Assistant Secretary



SWINDELL-DRESSLER ENERGY SUPPLY COMPANY

By J. M. Alexander

Its V. P.

ATTEST:

Edith M. Galloway

Its Assistant Secretary

STATE OF NEW HAMPSHIRE)
) SS
COUNTY OF ROCKINGHAM)

BEFORE ME, the undersigned authority, on this day personally appeared Connie W. Randolph Vice President known to me to be the person whose name is subscribed to the foregoing instrument, and she acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN under my hand and seal of office, this 27th day of November, A.D. 1990.

Barbara Rindfleisch
Notary Public in and for
Rockingham County, New Hampshire

My Commission expires:

BARBARA RINDFLEISCH, Notary Public
My Commission Expires May 23, 1996

STATE OF NEW HAMPSHIRE)
) SS
COUNTY OF ROCKINGHAM)

BEFORE ME, the undersigned authority, on this day personally appeared Dennis W. Alexander, Vice President, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN under my hand and seal of office, this 27th day of November, A.D. 1990.

Barbara Rindfleisch
Notary Public in and for
Rockingham County, New Hampshire

My Commission expires:

BARBARA RINDFLEISCH, Notary Public
My Commission Expires May 23, 1995

DESCRIPTION OF EQUIPMENT

MANUFACTURER: Ortner Freight Car Company

PLANT OF MANUFACTURER: Covington, Kentucky

DESCRIPTION OF EQUIPMENT: Twenty (20) 3850 cu. ft. capacity coal "Rapid Discharge" coal hopper cars, bearing Road Mark and Numbers SDEX 10638 to SDEX 10648, both inclusive, and SDEX 10650 to SDEX 10658, both inclusive.

SPECIFICATIONS: Manufacturer's Specification No. OC 586

ESTIMATED PURCHASE PRICE: \$38,886.00 per item
(\$777,720.00 for 20 items)

DELIVER TO: Swindell-Dressler Energy Supply Company

PLACE OF DELIVERY: Gillette, Wyoming

OUTSIDE DELIVERY DATE: December 30, 1980

DESCRIPTION OF EQUIPMENT

MANUFACTURE: Trinity Industries Inc.

PLANT OF MANUFACTURER: Mt. Orab, Ohio

DESCRIPTION OF EQUIPMENT: Forty Five (45) 3850 cu. ft. capacity "Rapid Discharge" coal hopper cars, bearing Road Mark and Number SDEX 10659 to SDEX 10703.

SPECIFICATIONS: Manufacturer's Specification No. HK-4074-A
Drawing EX-677 dated April 12, 1990

PURCHASE PRICE: \$51,964.00 PER ITEM (\$2,338,380.00 for 45 items)

DELIVER TO: Swindell-Dressler Energy Supply Company

PLACE OF DELIVERY: Guernsey, Wyoming

OUTSIDE DELIVERY DATE: November 15, 1990

EXHIBIT A-5
(to Equipment Lease)